

REPORT RESPECTING THE REVIEW OF THE ELECTORAL
PROCESS FOR ELECTION OF DIRECTORS OF THE
CANADIAN WHEAT BOARD

Submitted by:
Canadian Wheat Board Election Review Panel

November 30, 2005

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The Honourable Reginald B. Alcock
Minister responsible for the Canadian Wheat Board
House of Commons
Ottawa, Ontario
K1A 0A6

Honourable Minister:

We are pleased to submit the Report of the Canadian Wheat Board Election Review Panel respecting the Review of the Electoral Process for Election of Directors of the Canadian Wheat Board.

Our Report provides an overview of election administration as set out in the *Regulations Respecting the Election of Directors of the Canadian Wheat Board* (the "Regulations") and summary data of specific historical electoral events. The Report also enumerates proposals formed to enhance producer confidence in the integrity of the board electoral process and heighten the transparency and accountability goals inherent in the Regulations.

Respectfully submitted,

Canadian Wheat Board Election Review Panel

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Canadian Wheat Board Election Review Panel

Members

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Corning, Saskatchewan

Greg Porozni
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David Rolfe
Elgin, Manitoba

Special Advisor

Janice Baker
Regina, Saskatchewan

Amendments to the *Canadian Wheat Board Act* in 1998 empowered producers to elect ten of fifteen Directors to the Board. In light of the fact that seven years have elapsed since the first directorial election the Minister asked for a review of the electoral system. Four elections have been held during that period.

The Panel is to undertake a comprehensive examination of the electoral system for the election of the Canadian Wheat Board producer directors.

This election review panel will consult producers, farm organizations and provincial governments.

The Panel is to submit a report containing recommendations on the areas covered in the scope of the review that can form the basis for implementing any required changes to the electoral system prior to the next election.

Consultation Process

With a tight timeline due to holding consultations prior to the busy harvest season, the Panel quickly convened, producing a plan to capture the greatest amount of producer input possible. To maximize public input, the review was advertised in several agricultural newspapers through two public notices and one press release. A website was launched where producers could view the scope of the review and the schedule of meetings. During the week of August 15, 2005, three public consultations meetings were held in Edmonton, Saskatoon and Winnipeg. The Panel also had meetings with the Canadian Wheat Board of Directors and Election Co-ordinator of the last three elections Meyer Norris Penny. An invitation was sent to all three provincial governments.

Scope of the Review

In an effort to produce a focused round of public consultations and solicit responses a list of questions were produced. This list of questions worked as a helpful guide for the public and the Panel. The fifteen questions posed were:

1. Should the current one-permit book-one-vote system be maintained or should some form of a weighted or partially weighted ballot system based on crop area, wheat and barley or some other measure be considered?
2. Should absentee, non-farming interested parties be eligible to vote?
3. Should the minimum voting age be lowered or remain at 18?

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4. Should the current composition of the ten electoral districts be maintained or changed? Should the number of eligible voters in each electoral district be re-balanced? Should the boundaries of the electoral districts be changed? Should each electoral district be wholly within only one province? If boundaries of electoral districts are to be changed, how should the transition be managed?
 5. Have you been content with the manner in which the Canadian Wheat Board elections have been managed? How should Canadian Wheat Board Director elections be managed? Who should be accountable for the process? Should elections be conducted by an independent electoral commission rather than an Election Coordinator as has been the case? Should the Regulations provide authority to audit the financial statements of both candidates and third-party interveners? How should election rules be enforced?
 6. If you have been a candidate in the past, what are your thoughts on the rules pertaining to candidate and third-party spending?
 7. How should eligible voters be identified for information of candidates?
 8. The current criteria for being an eligible candidate are as follows: a Canadian citizen, has attained the age of 18 years by the day his/her nomination papers are filed, is named in a permit book as an actual producer, or is a shareholder in a corporation, a member of a co-operative, or partner in a partnership that is named as an actual producer for either year, an actual producer in the electoral district or an adjacent electoral district in which he or she will seek nomination, neither a Member of Parliament, nor a Member of a Provincial Legislature, not employed in any way in the conduct of the 2004 Canadian Wheat Board Directors election. Are the criteria appropriate? Are the criteria for being an eligible candidate correct?
 9. Do you approve of the current form of preferential voting system or would you support a change to majority voting (most votes regardless if the number is over 50% wins)?
 10. Do you have any comments/concerns about the Canadian Wheat Board Director Elections?
 11. Are there other factors that should be considered in determining eligible voters?
 12. Should candidates be provided financial support for election campaigns?
 13. What should the Code of Conduct be during an election period for candidates, existing members of the Board and the Canadian Wheat Board?
 14. Is the present timing of the election process appropriate?
 15. How should the voters list be validated?

Structure of the Canadian Wheat Board

The Canadian Wheat Board (the “CWB”) was created pursuant to the *Canadian Wheat Board Act* (the “Act”). It is responsible for the sale and marketing of all wheat, including durum wheat, feed barley and barley intended for human consumption that is produced in Manitoba, Saskatchewan, Alberta and the Peace River district of British Columbia for both domestic and export purposes. The CWB has the exclusive “single desk” authority to market grains for export from Canada and for human consumption within Canada. Generated annual revenues are returned to the producers, net of operating expenses.

A producer who wishes to sell grain through the CWB system in a given crop year (August 1 to July 31) is required to apply for a Permit. The producer is then issued a Permit Book, which is used to record all of the producer’s dealings with the CWB.

The CWB is governed by a fifteen member Board of Directors. Five members of the Board are appointed by the federal government, and ten are elected by grain producers. The elected directors are each elected for a four-year term. The directors’ terms are staggered, such that five directors are elected every two years.

The Electoral Process

The process to be followed in the election of directors for the CWB is set out in the *Regulations Respecting the Election of Directors of the Canadian Wheat Board* (the “Regulations”). The Regulations contemplate the hiring of an election coordinator to conduct the election of directors, and to ensure that the elections are carried out in a fair and impartial fashion, in accordance with the Act and the Regulations. The Regulations stipulate that the election coordinator shall fix the dates for the election period, including the date on which nominations close. The election coordinator is also responsible for the compilation of a voters list.

CWB directors are chosen by grain “producers”. “Producers” is a defined term in the Act, and includes “actual producers” – those who actually produce grain, as well as persons entitled to the grain grown by actual producers, whether as landlord, vendor or mortgagee. Producers who produce grain in an electoral district are entitled to vote in that electoral district. In the event that a producer produces grain in more than one district, the producer is entitled to select one district in which to vote, but may not vote in more than one district.

The Regulations stipulate that no later than sixty days before the last day of the election period the CWB shall provide the election coordinator with a list of

producers who are named in a Permit Book on the day that the list is sent or who were named in a Permit Book during the previous crop year. No later than thirty days before the last day of the election period, the election coordinator is required to make the list of the voters in each electoral district publically available, and to provide each candidate with a copy of the list of the voters in the candidate's electoral district. Any producer whose name is not included on the voters list may, no less than fourteen days before the last day of the election period, ask the election coordinator to add the producer's name to the voters list, subject to the producer providing proof of his or her identity and eligibility.

Under section 17 of the Regulations, the election coordinator is required to mail a ballot to each voter on the voters list no less than twenty-five days before the last day of the election period. Voters vote by mail, and to be counted, completed ballots must be postmarked on or before the last day of the election period.

Voters are provided with a coloured envelope in which the completed ballot is to be returned. The colour of the envelope relates to the district to which the vote pertains. Each envelope also bears a bar code.

During the day fixed for the counting of the votes, the election coordinator, in the presence of independent scrutineers appointed pursuant to the Regulations sorts the unopened colour-coded envelopes by electoral district, opens, counts the number of first preferences recorded on the ballots for each candidate and declares as elected the candidate who obtains a majority of valid votes cast. The results of the election are then made public. The election coordinator is required to complete and forward to the Canadian Wheat Board a report of the official voting results together with any other information in respect of election that the election coordinator deems fit to include.

Electoral Synopsis for the years: 1998, 2000, 2002 and 2004 for Election of Directors of the Canadian Wheat Board

1998 – Districts 1 through 10

- Royal Assent of Bill C-4. The bill changes the Crown corporation status of the Canadian Wheat Board to a mixed enterprise directed by a full-time Chief Executive Officer and a part-time board of directors. The bill also requires the Canadian Wheat Board's business and affairs to be directed and managed by a board consisting of 15 members including a chairperson and a president. Four directors and the president would be appointed by the federal government and ten directors would be elected by producers; with the exception of the president, directors would hold office for a maximum term of four years for no more than three terms.

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- In December, the first farmer-controlled board of directors is elected. All ten directors are elected, five for two year terms, five for four year terms.
 - Election Coordinator, KPMG suffers computer problems in counting votes
 - Elected Directors take over supervision of Canadian Wheat Board (December 31)
 - 48 percent ballot response

1998 Climate: During the 1998 election, the confusion of the Canadian Wheat Board elections was focused in two main areas: the qualifications for electors and the preparation of the electors' list. However, there are several issues relating to the preparation of a list of Canadian Wheat Board electors that are dependent on the qualifying characteristics of the electors. These issues relate primarily to the availability of the information required to qualify electors and the processes used to obtain that information

While the Canadian Wheat Board had experience in the past with the periodic election of members of the Advisory Committee, the Board election of 1998 established a new process with new qualifications and an extremely short period of time in which to implement them. The Permit Book was prescribed as the source of information about qualified electors in 1998. The lists of electors had to be produced and published within fourteen weeks after the passage of the legislation, but the governing regulation that confirmed elector qualifications was not passed until the tenth week of the Election.

Many of the concerns expressed publicly about the 1998 election process served to highlight an essential tension within the structure of the Board's electoral process. The decision to base the elector's list on the Permit Book implied a positive link between the Board's fundamental business, the marketing of grain, and the eligibility of stakeholders to participate in the governance of the Canadian Wheat Board.

The Permit Book is the key tool for identification of producers with stake in the management of the Board's business activity. The names of Actual Producers and Interested Parties have been entered in Permit Books across the Prairies and into the Canadian Wheat Board database for the purpose of managing the business of marketing Board grains. The use of these names was an appropriate decision in the context of the need to conduct the first Directors' election in a short period of time. However, it has forced the issue of the recognition of different types of interest in the Board's business, such as joint actual producers, colonies, landlords, farms operating under a trade name, corporations and financial institutions. Their inclusion in the electoral process in 1998 was not well understood by the electorate.

2000 – Districts 2, 4, 6, 8 and 10

- Board of directors election for 5 Directors
- Approximately 75,000 eligible voters with 40.6 percent ballot response
- Third party group CARE (Choice, Accountability, Responsibility and Efficiency) sent unsigned letters under the heading “important voting instructions” to producers

2002 – Districts 1, 3, 5, 7 and 9

- Board of directors election for 5 Directors
- Approximately 45,000 eligible voters with a 43 percent ballot response

2004 – Districts 2, 4, 6, 8 and 10

- Board of directors election for 5 Directors
- Art Mainil, a farmer who opposed the board’s monopoly on wheat and barley exports, sought a court injunction alleging election irregularities. A federal judge ruled against Mainil’s bid to delay the announcement of the results, but left the door open for a judicial review of the board’s election process
- Election Coordinator, Meyers Norris Penny, admit two problems occurred during the election. A computer glitch resulted in about 200 producers being assigned to vote in a wrong district and 792 producers were left off the original voters list. Both problems were solved before the votes were counted. Eligible voters had been left off the voters list due to the fact that permit-holding farmers who had not delivered product to the wheat board in the last year were inadvertently left out of the voter’s database.
- 47, 000 eligible voters 32.7 percent ballot response

Recommendation #1

Change the eligibility to vote criteria

Change eligible voters to include only “actual producers” who have delivered 40 tonnes or more grain to the Canadian Wheat Board in any one of the last two crop years.

There are many reasons to streamline the voters list. Many concerns were raised over the ability of those who did not share in the production or marketing of CWB grains having the ability to vote. The move to a 40 tonne minimal requirement would still allow smaller producers and others who only market minimal amounts of grain through the CWB the opportunity to vote.

These adjustments would create a more transparent voters list, a more straightforward administration and reduce the costs of compiling and maintaining the voters list.

The weighted vote is not thought to be necessary at this time because the Canadian Wheat Board is not a true shareholder corporation.

With the refined voter eligibility and fewer votes available, those actual producers who exercise their right to vote will have a much more meaningful voice in the election of Directors to the CWB.

Recommendation #2

Reduce the voting age to sixteen

Reduce the minimum voting age to 16 to include actual producers who are 16 or 17. The voting representative of ‘actual producers’ that are corporations, partnerships etc. to be over 16 years of age.

Change is needed in the voting age to be consistent with the criteria for actual producers on the permit book application form, which allows for actual producers that are 16 or 17 years of age.

Recommendation #3

Designated home quarters be used to define voting districts

Actual producer should be assigned to the voting district in which his or her designated home quarter is situated. Retain the current number (10) of electoral districts.

Using the producer's designated home quarter creates a system that is transparent, easy to administer and represents the direct relationship between the producer's location and the Canadian Wheat Board electoral district. In terms of the number of electoral districts, there was not sufficient support or justification for any change.

Recommendation #4

District boundaries should be realigned

After adjusting for the number of eligible voters in each district according to the new definition of the eligible voter, there is the possibility of a need for re-alignment of boundaries of electoral districts. The recommendation is to keep the voter population within approximately a 15% variance. Districts should continue to cross provincial borders. Voting district boundaries should be changed effective with next election after re-alignment of each district. Because of its' isolation special consideration should be given, when realigning district boundaries for the Peace River area.

There will be a need for re-balancing in the numbers of voters per district after the voters list is reviewed using the new voter criteria. The 15% variance maintains balance but is still large enough to avoid constant realignment. There was not sufficient support for changing organization of districts by provincial boundaries.

Recommendation #5

There should be an Independent Election Commissioner

An Independent Election Commissioner, appointed by Canadian Wheat Board of Directors, should manage the Director elections. The Commissioner would ensure the integrity of the process. The Canadian Wheat Board of Directors should allot an autonomous budget to the Election Commissioner for each election. The Independent Election Commissioner's responsibilities would include overseeing the administrative, financial, operational and enforcement of regulations pertaining to the election. The Commissioner would

report back to Canadian Wheat Board Chief Executive Officer/President. The Commissioner would also be responsible for review of the need for voting district boundary realignment. An election summary should be made public in the Canadian Wheat Board Annual Report.

The Independent Election Commissioner will promote the autonomy, transparency and integrity of the electoral system. This power does not exist in the current system to enforce election rules and regulations. Many participants in the public consultations expressed wishes for an independent body to oversee the elections. The Canadian Wheat Board should appoint the commissioner, so that the independence from the federal government is maintained. Our research indicated that the current mandate of Elections Canada did not extend to allow it to oversee the Canadian Wheat Board Director Elections.

Recommendation #6

Maintain Third Party spending limits

Any third party interveners can not use monies as an alternative vehicle to promote candidacy. Any third party spending that supports specific candidates should be counted against candidates' spending limit. All parties spending should be reported.

There was no consensus to change the \$10,000 spending limit.

Recommendation #7

The election scrutineer process be changed

Each candidate should name one scrutineer if they wish rather than the Canadian Wheat Board appointing independent scrutineers. Costs for the scrutinizing of the ballots should be covered by the Independent Election Commissioner's budget.

This recommendation provides the candidates the opportunity to obtain assurance that the process is working effectively. Currently the scrutinizing process is set up to be accountable back to the voters, but the new Independent Election Commissioner will play this role. The new recommendation will make the scrutineers more accountable to the candidates. This addresses the distrust of the whole procedure when candidates were not allowed to have their own scrutineers and improves the transparency of the vote count.

Recommendation #8

The ability of candidates to communicate with the voters should be enhanced

Improvement in the ability of candidates to communicate with eligible voters is needed. A section in the permit book application could be included that offers the option for the producer to indicate if the Canadian Wheat Board release phone numbers and email address to the candidate voters list. To avoid unwanted communication by candidates or their agents during an election campaign, emails that are sent to voters by candidates or their agents should include an unsubscribe option.

This recommendation addresses the issue of communication between the candidate and the voter but still allows for the privacy of the individual in two steps: 1) the choice of information release in the permit book application form, 2) the option to unsubscribe to subsequent candidate emails.

Recommendation #9

The preferential ballot voting system should be retained

However, to enhance the understanding of how preferential balloting works, better information material should be developed and distributed with the voter package.

While the current voting system has gained acceptance, a greater understanding of the preferential ballot could benefit election participation and voter turnout.

Recommendation #10

No financial support should be provided to candidate

It is clearly not within the mandate of the Canadian Wheat Board to be funding candidates' campaign expenses. The written and oral submissions demonstrated strong support for this position.

Recommendation #11

The Election Code of Conduct should be revised

The Election Code of Conduct for the Canadian Wheat Board of Directors should be revised to eliminate the possibility of unequal

public or media exposure of incumbent candidates during the election period in the following manner:

1. Board will continue to function during the election period, incumbents can continue to fulfill their role at board meeting level,
2. Incumbent directors can not participate in press releases or speak to the media concerning current Canadian Wheat Board business during the election period,
3. Incumbent directors can not appear at public functions as a representative of the Canadian Wheat Board during the election period,
4. *Grain Matters* should not publish an issue during the election period,
5. Canadian Wheat Board will refrain from payments and program announcements during the election period.

The period for application of the Code of Conduct should begin after nominations close.

The premise behind this recommendation is fairness amongst candidates. No incumbent candidate should have an unfair advantage and the election process must be open and transparent with an assurance of impartiality. Many producers presented the concept of stricter code of conduct during the consultation process.

Recommendation #12

The timing of the Canadian Wheat Board Director election should be changed

The timing of elections should be changed as follows:

- Nominations should open December 1st.
- Nominations for candidates should close by the end of the first week of January.
- Voter's lists should be sent out the following day.
- Voters should return ballots by the last Friday in February.
- Winning candidates assume role of director on April 1st.

An overwhelming number of participants in the consultation process expressed dissatisfaction with the current timing of the election. Experience has demonstrated that producers are often too busy to pay appropriate attention to the election

campaign during the harvest season and fall period. In moving the election up to the January/February time period, the issue of a busy or delayed harvest is avoided. This should enable candidates to campaign more effectively and enhance voter participation in the election.

Recommendation #13

Change method of appointing directors

With respect to appointed Directors, the Panel recommends that:

1. Minister responsible for the Canadian Wheat Board appoints those directors on the recommendation of the elected Canadian Wheat Board of Directors,
2. At any given time, only three of the five appointed directors will be eligible to vote.

By reducing the voting power of the non-elected directors more accountability is transferred to the producers. Many participants in the consultation process expressed a concern over the perceived power of the non-elected directors. Reducing the voting capabilities of non-elected directors addresses the issue of their presence and perceptions of the federal government appointees influencing the direction of the board.

Recommendation #14

The Statutory Declaration process should remain in place

Retain the statutory declaration, to add “actual producers” to voters list if the criteria is met for ‘eligibility’ as voters but their name is missing from voters list. Any revisions to voter’s lists will be sent to candidates.

Maintaining the system of statutory declaration ensures that those individuals who are inadvertently left off the voters list have an opportunity to be added.

Acknowledgements

The Panel wishes to express our special gratitude to advisor Janice Baker for all of her expertise and advice to the Panel.

The Panel would like to thank Deborah Harri, Corporate Secretary of the Canadian Wheat Board, for the information and support that she provided to the Panel.

The Panel is grateful for the cooperation and assistance of the Agriculture and Agri-Food Canada and in particular J.P. Lewis.

Last, but not least, the Panel would like to commend those producers and organizations who contributed to the consultation process.

**List of Organizations and Individuals
Making Submission to the Panel**

**Public Hearing: Edmonton, Alberta
August 15, 2005**

Western Barley Growers Association *
Albert J. Wagner, *Past President*
Alberta Grain Commission *
Eugene Dextrase, *Chairman*
Alberta Barley Commission
Leo Meyer, *Director at Large*
Leo Meyer Grain Production Ltd.
Leo Meyer, *President/CEO*
Thomas R. Jackson *
Jeff Nielsen *
Rick Strankman
Bob Patrick

**Public Hearing: Saskatoon, Saskatchewan
August 17, 2005**

Dwayne A. Anderson *
National Farmers Union *
Terry Pugh, *Executive Secretary*
Canadian Federation of Independent Business *
Gaylene Simpson, *Agri-Business Policy Analyst*
Marilyn Braun-Pollon, *Director, Provincial Affairs, Saskatchewan*
The Saskatchewan Association of Rural Municipalities *
Neal Hardy, *President*
Western Canadian Wheat Growers Association *
Cherilyn Jolly-Nagel, *President*
Randy Hoback, *Chairman*
Agricultural Producers Association of Saskatchewan *
David Brown, *Vice President*
David Orchard

**Public Hearing: Winnipeg, Manitoba
 August 19, 2005**

Eduard Hiebert
Wilfred (Butch) Harder
Fred Tait
Keystone Agricultural Producers (Manitoba) *
 Glenn Young, *Vice President*
Brenda Tjaden-Lepp
Ian Robson
William (Bill) Nicholson *
Wild Rose Agricultural Producers (Alberta)
 Neil Wagstaff, *Past President*
 Bill Dobson, *President*
Harry Sotas
Charles Fossay
Bill Toews

Oral/Written Submissions:

Curtis Sims *
Joe and Michelle Pouteaux *
Agriculture Food and Rural Development, Province of Alberta
 Honourable Douglas Horner, *Minister*
 Jason Cripps, *Executive Assistant to the Minister of Agriculture*
 Izzy Huygen, *Alberta Grain Commission*
William (Bill) Cooper *
Agricore United *
 Cam Dahl, *Government Relations and Policy Development*
Hart Enterprises Corporation *
 Owen Hartman
Prairie Rose Farms Limited *
 Art Bird
Roy Bailey *
Reg Enright *
Dale Fankhanel *
Craig Roy *
CG Valley Farms *
Challoner Farms *
 Garf Challoner
Jerome Schafer *
George A. Calvin *
Agriculture, Food and Rural Initiatives, Province of Manitoba *
 Honourable Rosann Wowchuk, *Minister*

Bruce Dalgarno *
Boyd Bianchi *
Colleen Bianchi *
Lloyd and Noreen Johns *
Frontier Centre for Public Policy *
Rolf Penner
Pallister Farm Limited *
Jim Pallister
Brett and Donna Wellsch *
Ormond Wedin *

* Denotes those organizations and individuals who submitted a written presentation to the Panel.

Summary of Recommendations

1. Change the eligibility to vote criteria
2. Reduce the voting age to sixteen
3. Designated home quarters be used to define voting districts
4. District boundaries should be realigned
5. There should be an Independent Election Commissioner
6. Maintain Third Party spending limits
7. The election scrutineer process be changed
8. The ability of candidates to communicate with the voters should be enhanced
9. The preferential ballot voting system should be retained
10. No financial support should be provided to candidate
11. The Election Code of Conduct should be revised
12. The timing of the Canadian Wheat Board Director election should be changed
13. Change method of appointing directors
14. The Statutory Declaration process should remain in place